
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CFTO-TV and CFMT-TV re "Walk to Work" Commercial

(CBSC Decision 93/94-0015)

Decided June 22, 1994

M. Barrie (Chair), S. Fish, P. Fockler, D. Luzzi, R. Stanbury

THE FACTS

During the months of September and October, 1993, Toronto's CFTO-TV and CFMT-TV aired, at various times and dates, a commercial for local radio station CHUM-FM. The thirty-second commercial depicted a man, unclothed, wearing a set of headphones and carrying a briefcase that hid parts of his body, walking to a bus stop. The commercial also briefly depicted an unclothed woman (whose body was hidden in part by a large portable stereo) sitting on a bench at the bus stop. The voice-over to the commercial stated, near the end of the spot, "CHUM-FM: it's all you need to put on."

The Canadian Radio-television and Telecommunications Commission (CRTC) received three complaints about the commercial, and referred them to the Canadian Broadcast Standards Council (CBSC). In one letter, a CFTO-TV viewer described the commercial and added that,

I find this commercial very offensive and totally unacceptable and would like to see some action taken to have it removed from the airwaves as soon as possible.

Another CFTO-TV viewer, after describing the commercial, described her understanding of the message of the commercial:

The commercial goes further to say that the only thing you need to have on when you go out, is CHUM. If I were to step out like that, I would be arrested and charged with indecent exposure. I have four children to raise who know it's against the law to do what this ad says they can.

Does it surprise you that our country is in such moral decay, and crime and violence are up, when garbage like this is allowed on the air?

A third viewer, who had seen the commercial on CFMT-TV, expressed her desire that the commercial cease running,

... I ask for your help in removing this offensive commercial from the air. I am writing to both the TV station and the radio station stating my objection to such a commercial that has little to do with promoting music and more to do with promoting nudity on TV.

The CBSC sent the complaints to the broadcasters in question for response.

In her response to the first two complaints, the Vice-President of Programming and Promotion of CFTO-TV described her station's practices for obtaining commercial clearances. She wrote that,

The commercial referred to in your letter was approved for broadcast by the Telecaster Committee of Canada, an organization that is set up to function as a general clearing house for commercials intended for broadcast.

The process for clearing commercials involves the screening of visual materials, reviewing scripts and/or audio components to ensure the advertisement meets advertising and industry guidelines. There are occasions when commercials ... may contain sensitive, alarming or frightening segments, but gain approval with an advisory or caution that the material may not be appropriate for all time periods The CHUM-FM spot was approved for broadcast by the Telecaster Committee with no such cautions.

Upon receipt of your complaint, we have reviewed the CHUM-FM spot "Walk to Work" and, while we are sensitive to your concerns, in our view, we do not find the commercial to be offensive.

She closed by indicating that the Telecaster, CHUM-FM and the advertising agency had been informed of the viewers' comments. In its response to the third complaint, CFMT-TV wrote that the commercial in question was aired throughout Southern Ontario and that CHUM-FM had a reputation for "clever and creative advertising approaches". The station's General Manager added that,

We unfortunately do not concur with any opinion that finds this material offensive. Nor do we feel it promotes nudity on television but rather that it is the type of attention-getting device which is not sexual in nature and is, in some ways, far less revealing than the bathing suit sequences that frequent all types of television for much longer durations.

The complainants were not satisfied with the broadcasters' responses, and returned their signed waiver forms to the CBSC, indicating their desire to have the CBSC Ontario Regional Council consider the matter. The Regional Council met on June 22, 1994, to discuss the complaints.

THE DECISION

The CBSC Secretariat had determined that the complaints could be considered under the *Code of Ethics* of the Canadian Association of Broadcasters (CAB). Clause 8 of that *Code* states, in relevant part:

Recognizing the service that commercial sponsors render to listeners and viewers in making known to them the goods and services available in their communities and realizing that the story or such goods and services goes into the intimacy of the home, it shall be the responsibility of member stations and their sales representatives to work with advertisers and agencies in improving the technique of telling the advertising story so that these shall be in good taste, simple, truthful and believable, and shall not offend what is generally accepted as the prevailing standard of good taste.

While it is generally true that the CBSC does not deal with advertising-related complaints, this is a question of *practice* rather than mandate. In the first place, broadcasters are as responsible for the advertising content which they transmit as they are for the dramatic, journalistic and other content on their airwaves. Second, as stated immediately above, the *CAB Code of Ethics* contains a provision dealing in express terms with advertising content. Although not relevant to this case, it might be noted that the *Voluntary Code Regarding Violence in Television Programming* also provides an advertising-related mandate to the CBSC in Clause 3.3.

This being said, as a practical matter, the CBSC has generally referred all advertising complaints related to national campaigns to the Canadian Advertising Foundation (which is charged with the administration of numerous codes relating to one aspect or another of the advertising business) and reserved to itself those complaints which seemed to be of a local nature.

With respect to the advertising issue, it should be noted that the Council was not of the view that acceptance or pre-clearance by the Telecaster Committee of Canada of the commercial constituted a defence to an alleged breach of Clause 8 of the *CAB Code of Ethics*.

In the instant matter, the Council determined that it was within its mandate to consider complaints relating to the "Walk to Work" commercial. It further decided that the provisions of Clause 8 of the *CAB Code of Ethics* relating to "the prevailing standard of good taste" appeared to apply to these complaints.

After viewing a tape of the commercial and reviewing the relevant correspondence, the members present unanimously agreed that the commercial in question did not offend prevailing standards of good taste. At its worst interpretation, the commercial represented an attempt at humour that might not be universally considered humorous by a viewing audience. Contrary to the complainants, the Regional Council members felt that the spot did not contain any sexual overtones or any attempt to encourage viewers to emulate any activity depicted on screen. It was, if anything, tongue-in-cheek, a double-entendre, a play on the radio verb "to put on (the radio or the station)". While it is evident that the Council's mandate did not include any evaluation of the success of the humour, the Council clearly felt that the visual pun did not breach any "prevailing standard of good taste".

The members did note, however, that the commercial had been aired at hours when children were watching television. In this context, while they did not feel that there had been a contravention of "scheduling" provisions in the *CAB Voluntary Code regarding Violence in Television Programming* (1987 version, namely, the one which was in effect at the time the complaints were received), they felt that the broadcasters could have taken into account the provisions of clause 1 of that *Code*, which recommends that broadcasters air programming of a mature nature at times when children are not likely to be part of the viewing audience. Therefore, at worst, the broadcasters could have been more attentive to the times at which the commercial was aired, but this constituted a breach neither of the *Code of Ethics* nor of the *Voluntary Code Regarding Violence in Television Programming*.

This decision is a public document upon its release by the CBSC and may be reported, announced or read by the stations against which the complaints had originally been made. In the case of a favourable decision, however, the stations are under no obligation to announce the result.